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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,647 10/17/2000		0/17/2000	Andrew S. Greenberg	TUV-005.01	3460
25181	7590	12/17/2002			
FOLEY HOA			EXAMINER		
155 SEAPORT	r blvd		SCHMIDT, MARY M		
BOSTON, MA	A 02110	1		ART UNIT	PAPER NUMBER
				1635	^
				DATE MAILED: 12/17/2002	Lo

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/690,647

Applicant(s)

Greenberg

Examiner

Mary Schmidt

Art Unit 1635



1 Responsive to communication(s) filed on Sep 25, 2002 2a) ☐ This action is FINAL. 2b) ☑ This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213. Disposition of Claims 4) ☑ Claim(s) 1 and 3-28		The MAILING DATE of this communication appears	on the cover sheet with the correspondence address
THE MAILING DATE OF THIS COMMUNICATION. Extensions of time way be available under the provision of 25 Cft 1.13 d.d. In no event, however, may a reply be timely flied after \$1X (8) MONTHS from the mailing date of this communication. If the gradie for welly septical above, the maximum statutory priced will apply and will expert \$2X (8) MONTHS from the mailing date of this communication. If No gradie for welly is specified above, the maximum statutory priced will apply and will expert \$2X (8) MONTHS from the mailing date of this communication. ANY mely secepted by the Office later the three morths that the mailing date of this communication, and the priced and the second part of the communication. No communication No c	Period f	or Reply	
Intelligent patent this communication. If the period for early is specified above, the microrrection period will apply within the stantacy minimum of thirty (30) days will be considered timely. If No period for reply is specified above, the microrrection period will apply and will ospile SX (6) MONTHS from the mailing date of this communication. Failure to selly within the sat or sentend parted for large with the mailing date of this communication. Failure to selly within the sat of sentend parted for large with mailing date of this communication, even if timely field, may reduce any served patent term adjustment. Sea 37 CFR 1.704(b). Status 1) Responsive to communication(s) filled on Sep 25, 2002 22) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213. Disposition of Claims 4) Claim(s) Individual service and se			TO EXPIRE1 MONTH(S) FROM
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Solution	4	a) Of the above, claim(s)	is/are withdrawn from consideration.
Solution	5) 🗌	Claim(s)	is/are allowed.
Application Papers 9	6) 🗆	Claim(s)	is/are rejected.
Application Papers 9)	7) 🗌	Claim(s)	is/are objected to.
9 ☐ The specification is objected to by the Examiner. 10 ☐ The drawing(s) filed on	8) 💢	Claims <u>1 and 3-28</u>	are subject to restriction and/or election requirement.
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3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)		ormation Disclosure Statement(s) (PTO-1449) Paper No(s).	6) Other:

Application/Control Number: 09/690,647 Page 2

Art Unit: 1635

DETAILED ACTION

1. The following election of species requirement superceeds the previous restriction requirement mailed 7/25/02:

Election/Restriction

2. This application contains claims directed to the following patentably distinct species of the claimed invention: administration of an effective about of an ERK 1/2, a MEK or a JNK inhibitor, or a specific combination of these such as an ERK ½ with a JNK inhibitor.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, all claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Application/Control Number: 09/690,647 Page 3

Art Unit: 1635

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 4. Claims 1, 3-28 are generic to a plurality of disclosed patentably distinct species comprising ERK ½, MEK and/or JNK inhibitors. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, or a specific combination of more than one type of inhibitor, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Application/Control Number: 09/808,558 Page 2

Art Unit: 1635

Drawings

6. The drawings are objected to because of the informalities noted in the attached PTO 948.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

The objection to the drawings will not be held in abeyance.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Mary M. Schmidt*, whose telephone number is (703) 308-4471.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *John LeGuyader*, may be reached at (703) 308-0447.

Inquiries relating to the status of this application may also be directed to *Katrina Turner*, whose telephone number is (703) 305-3413.

M. M. Schmidt December 16, 2002 Mary Schnids